IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODPUR

ORDER

1.S.B. Criminal Misc.Petition No.1586/2006
(Sanjay Kumar & Anr. Vs. State & Anr.)
2.S.B. Criminal Misc.Petition No.1588/2006
(Sanjay Kumar & Anr. Vs. State & Anr.)

Date of Order : 26th September , 2007

HON'BLE MR. H.R. PANWAR, J.

Mr. Sandeep Mehta for petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.
Mr. Sanjay Mathur for respondent No.2.

Both these criminal misc. petitions moved under Section 482 Cr.P.C. involved common question of law and fact and between the same parties, therefore, with the consent of the parties heard and decided together.

By the instant criminal misc. petitions under Section 482 Cr.P.C., the petitioner has challenged the order dated 3rd October, 2006 passed by learned Additional Chief Judicial Magistrate No.3, Udaipur (for short 'the trial court'), whereby the trial court dismissed the application filed by the petitioner under

Section 311 Cr.P.C. Seeking to recall complainant-respondent No.2 for further cross-examination.

I have heard learned counsel for the parties and perused the material available on record.

The grievance of the petitioner is that though he cross-examined respondent No.2 but he was not permitted to cross-examine the witness on material point by the presiding officer, therefore, transfer petition was filed seeking transfer of the case from the trial court, which came to be allowed by the learned Sessions Judge as respondent-complainant did not object the transfer.

On careful perusal of the statement of respondent Shanti Lal, it appears that the witness was cross-examined by the counsel for the petitioner on material point and there is nothing on record to show that the trial court did not permit the petitioner to further cross-examination of the witness on that day and, therefore, the allegation against the presiding officer is not found to be correct in absence of any material on record. Had the counsel representing accused petitioner asked same questions to the respondent and if not allowed by the trial court, he would have filed objection bringing on the question so put to

the witness respondent herein.

In the circumstances, therefore, no case for recalling of the respondent-witness for further cross-examination is made out. The criminal misc. petitions are, therefore, dismissed. Interim order dated 08.12.2006 stands vacated. The stay applications also stand dismissed.

(H.R. PANWAR), J.

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